

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

MDL No. 3076

No: 1:23-md-03076-KMM

IN RE: FTX CRYPTOCURRENCY EXCHANGE COLLAPSE LITIGATION
This Document Relates To All Cases

**JOINT PRELIMINARY REPORT OF DEFENDANTS MULTICOIN CAPITAL
MANAGEMENT LLC, PARADIGM OPERATIONS LP, SEQUOIA CAPITAL
OPERATIONS, LLC, SOFTBANK VISION FUND (AIV M2) L.P., THOMA BRAVO, L.P.,
AND TIGER GLOBAL MANAGEMENT, LLC**

Multicoin Capital Management LLC (“Multicoin”), Paradigm Operations LP (“Paradigm”), Sequoia Capital Operations, LLC (“Sequoia”), SoftBank Vision Fund (AIV M2) L.P., Thoma Bravo, L.P. (“Thoma Bravo”), and Tiger Global Management, LLC (“Tiger”) (collectively, the “Investor Defendants”) hereby submit this Preliminary Report pursuant to the Court’s June 7, 2023 Order.¹ (ECF No. 7.)

A. FACTUAL AND PROCEDURAL BACKGROUND

The cases in this MDL arise out of the collapse of FTX Trading Ltd. (“FTX”) and West Realm Shires Services, Inc. d/b/a FTX US (together, “FTX Entities”) in November 2022 and allegations that the FTX Entities, their co-founder and former Chief Executive Officer Samuel Bankman-Fried (“Bankman-Fried”), and former FTX personnel Gary (Zixiao) Wang and Nishad Singh misappropriated customer funds and diverted assets to Alameda Research, a proprietary trading firm also owned by Bankman-Fried. On December 9, 2022, the U.S. Attorney’s Office

¹ The Investor Defendants are named as defendants in the following actions: *O’Keefe v. Sequoia Capital Operations, LLC, et al.*, No. 1:23-cv-20700 (S.D. Fla.) (naming Multicoin, Paradigm, Sequoia, SoftBank Vision Fund (AIV M2) L.P., Thoma Bravo, and Tiger); *Rabbin v. Sequoia Capital Operations, LLC, et al.*, No. 4:23-cv-00655 (N.D. Cal.) (naming Thoma Bravo, Sequoia, and Paradigm); *Girshovich v. Sequoia Capital Operations, LLC, et al.*, No. 3:23-cv-000945 (N.D. Cal.) (naming Thoma Bravo, Sequoia, and Paradigm); *Siskind v. Sequoia Capital Operations, LLC*, No. 1:23-cv-22144 (S.D. Fla.) (naming Thoma Bravo, Sequoia, and Paradigm); and *Cabo et al., v. Sequoia Capital Operations, LLC*, 3:23-cv-02222 (N.D. Cal.) (naming Sequoia).

As noted above, Multicoin, SoftBank Vision Fund (AIV M2) L.P., and Tiger are named as defendants only in *O’Keefe* and join in this report in anticipation that *O’Keefe* will automatically be consolidated in this action, as noted on the docket. (See ECF No. 16.)

Additionally, counsel to SoftBank Vision Fund (AIV M2) L.P. advised that the Plaintiff in *O’Keefe* named the incorrect fund in his complaint—according to counsel, SVF II Tempest (DE) LLC, rather than SoftBank Vision Fund (AIV M2) L.P., is the proper party. Plaintiff in *O’Keefe* indicated that he intended to amend his complaint to substitute SVF II Tempest (DE) LLC for SoftBank Vision Fund (AIV M2) L.P. Plaintiff in *O’Keefe* also named SoftBank Group Corp. as a defendant but has not served SoftBank Group Corp.

for the Southern District of New York charged Bankman-Fried with fraud, money laundering, and campaign finance offenses, and his first criminal trial is currently set for October 2, 2023. *United States v. Bankman-Fried*, 1:22-cr-00673, ECF No. 1; Jan. 3, 2023 Minute Entry. The indictment asserts that the FTX Entities and Bankman-Fried perpetrated their fraud on the FTX Entities' equity investors and customers. *See id.*, Superseding Indictment ¶¶ 4, 13, ECF No. 115. Prosecutors have entered into agreements with Wang, Singh, and Alameda Research's former CEO Caroline Ellison to proceed by information instead of indictment. *Id.*, ECF Nos. 7, 9, 91. Similarly, the SEC has sued Bankman-Fried, alleging he defrauded FTX's equity investors, who provided FTX more than \$1.8 billion in funding. *SEC v. Bankman-Fried*, No. 22-cv-10501, Compl. ¶¶ 1, 3. As a result of the fraud alleged in both the indictment and the SEC complaint, the Investor Defendants have suffered substantial losses on their investments, which totaled hundreds of millions of dollars. *See, e.g., O'Keefe* Compl. ¶ 136.

Following the FTX Entities' collapse and the criminal charges against Bankman-Fried, numerous lawsuits now part of this MDL or identified as potential tag-along actions have been filed against a wide array of defendants beyond the FTX Entities and their executives, including entities and individuals that did business with, invested in, or participated in advertisements regarding the FTX Entities prior to their collapse. Plaintiffs in these actions assert claims on behalf of substantially overlapping classes of the FTX Entities' customers, alleging losses as a result of the FTX Entities' collapse and bankruptcy petitions. *See, e.g., Garrison Am. Compl.* ¶ 234; *Hawkins* Compl. ¶ 46; *Podalsky* Compl. ¶ 143; *O'Keefe* Compl. ¶ 180; *In re FTX Investors Sequoia Capital Litigation* Consol. Compl. ¶ 163; *Cabo* Compl. ¶ 159; *Siskind* Compl. ¶ 156.

In light of the FTX Entities' bankruptcy, certain plaintiffs now seek recovery from the Investor Defendants, with whom they never did business and who themselves suffered substantial losses as the result of the FTX Entities' alleged misconduct. Plaintiffs have asserted various state law claims against the Investor Defendants, including (1) civil conspiracy, (2) aiding and abetting fraud, fiduciary breach, and conversion, (3) fraudulent inducement, (4) intentional and negligent misrepresentation, (5) violations of California's Business and Professions Code, and (6) violations of California's Corporations Code. Each of these claims is premised on the unsupported, and wholly illogical, theory that the Investor Defendants knew of (or should have known of) the FTX Entities' fraud, yet nevertheless chose to invest tens or hundreds of millions of dollars in those entities that was lost once the fraud was revealed.

On June 5, 2023, the United States Judicial Panel on Multidistrict Litigation (the "JPML") issued a Transfer Order transferring eight pending lawsuits relating to the FTX Entities to this Court for coordination or consolidation. *See In re: FTX Cryptocurrency Exch. Collapse Litig.*, MDL No. 3076, Transfer Order at 2, ECF No. 138. On June 14, 2023, the JPML finalized its June 6, 2023 Conditional Transfer Order, transferring four tag-along actions to this Court. *See id.*, ECF No. 140.

B. CRITICAL FACTUAL AND LEGAL ISSUES

As the JPML held, the MDL cases and tag-along actions involving the Investor Defendants present overlapping factual and legal issues, including: the conduct of Bankman-Fried and Alameda Research's CEO Caroline Ellison; the FTX Entities' relationship with Alameda Research; and whether Bankman-Fried and other FTX Entities insiders conspired to make misrepresentations to customers and investors to induce them to invest in the FTX

Entities' products and use the FTX Entities' respective cryptocurrency trading platforms. *See* Transfer Order at 2.

A key early issue in this litigation will be whether Plaintiffs have stated claims against the Investor Defendants that can survive motions to dismiss. The complaints asserting such claims do not contain any support for the facially implausible theory that any Investor Defendant assisted in or conspired to further the alleged FTX Entities' scheme. Moreover, the complaints are devoid of any well-pled facts that any Investor Defendant—much less each of them—made knowing and material misrepresentations and omissions regarding the safety and viability of either of the FTX Entities, or that Plaintiffs relied on such purported misrepresentations to their detriment. Instead, the complaints are a mishmash of improper group pleading and inadequate allegations that merely recite some of the Investor Defendants' public statements alongside statements from the Bankman-Fried indictment, notably omitting the parts of the indictment that discuss how the FTX Entities' equity investors were misled. Several Investor Defendants also anticipate moving to dismiss the claims against them based on lack of personal jurisdiction.

The Investor Defendants anticipate that, in the unlikely event that the claims asserted against them survive motions to dismiss, the Court will need to address issues relating to case scheduling and discovery—including any considerations with respect to the ongoing criminal proceedings or issues that might arise in connection with the FTX Entities' bankruptcy proceedings—as well as class certification. These and other issues may require briefing, argument, and rulings by the Court.

Given the overlapping complaints and factual allegations, the Investor Defendants respectfully request that the Court consider the following issues during the June 21, 2023 Status Conference and issue a Case Management Order addressing:

1. The transfer of any related cases that are not yet consolidated;
2. Submission of leadership requests from Plaintiffs' counsel;
3. Case scheduling considerations, including any considerations in light of the ongoing criminal proceedings;
4. The possibility of requiring Plaintiffs to file (i) a single consolidated complaint or (ii) multiple consolidated complaints, including one against the Investor Defendants, separate from unrelated claims against the FTX Entities' insiders, professionals, banking partners, and promoters;
5. Revised briefing schedules for motions to dismiss and/or answers;
6. Recurring case status hearings; and
7. Any other issue and topic that the Court deems relevant.

Dated: June 18, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of June, 2023, I e-filed the foregoing document using the Court's CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Kelly Jean Howard Garcia
Kelly Jean Howard Garcia, Esq.